



1 readily achievable to do so.

2       2. Kobe Japan is a place of public accommodation located at 1918 Oak Park Blvd. in  
3 Pleasant Hill, California. The facility lacks accessible accommodations that has denied plaintiff  
4 and other similarly situated individuals with physical disabilities from attaining full and equal  
5 access to the accommodations, facilities, goods, services, opportunities, and experiences that  
6 defendant offers and provides to nondisabled members of the public.

7       3. Plaintiff is a person with a physical disability who requires the use of a wheelchair  
8 for mobility. Plaintiff has been denied full and equal access to the accommodations and services  
9 offered at defendant's facility. Plaintiff visited defendant's facility as an invitee, guest, patron,  
10 and customer and personally experienced actionable discrimination that violated his civil rights  
11 under applicable federal and state laws.

12       4. Defendant violated plaintiff's civil rights under Federal and California laws by  
13 failing to design, construct, and provide accessible accommodations at its facility. Plaintiff  
14 personally encountered barriers to full and equal access that caused him physical difficulty,  
15 discomfort, and embarrassment while attempting to access accommodations at defendant's  
16 facility. Thus, plaintiff seeks injunctive relief against defendant pursuant to Title III of the  
17 Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101, *et seq.*, and monetary relief  
18 under the California Unruh Civil Rights Act, Cal. Civ. Code Sections 51, 52, and the California  
19 Disabled Persons Act, Cal. Civ. Code Sections 54, 54.1, and 54.3, *et seq.*

## 20 **JURISDICTION AND VENUE**

21       5. This Court has original jurisdiction of this action pursuant to 28 U.S.C. Section  
22 1331 for violations of the Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101, *et*  
23 *seq.* ("ADA"). Pursuant to 28 U.S.C. Section 1367, the Court also has supplemental jurisdiction  
24 over related causes of action under California law arising from the same operative facts and  
25 transactions. These related claims include violations of Cal. Civ. Code Sections 51, 52, 54 and  
26 54.3, Cal. Gov't Code Section 4450, *et seq.*, Cal. Health & Safety Code Sections 19955-19959,  
27 and Title 24 of the California Code of Regulations.

28       6. Venue is proper in this Court pursuant to 28 U.S.C. Section 1391(b) and is

1 founded on the fact that the real property, which is the subject of this action where plaintiff's  
 2 causes of action arose, is located within this judicial district at 1918 Oak Park Blvd., Pleasant  
 3 Hill, California, 94523 and in Contra Costa County.

4 7. Intra-district Assignment. This matter should be assigned to the San Francisco  
 5 and Oakland Division of the Court under Civil Local Rule 3-2(c) and (d), because the real  
 6 property where the causes of action arose is located within Contra Costa County.

### 7 PARTIES

8 8. Plaintiff requires the use of a wheelchair for mobility and for traveling about in  
 9 public places. Accordingly, plaintiff is an "individual with a disability" as defined by Federal  
 10 and California anti-discrimination laws enacted to ensure that individuals with disabilities are  
 11 afforded full and equal access when visiting and accessing public accommodations to enjoy,  
 12 participate in, experience, and benefit from, accommodations, and goods and services offered to  
 13 members of the general public who are nondisabled.

14 9. Plaintiff visited defendant's business as a customer and was denied of his civil  
 15 rights to access available services and accommodations in a full and equal manner due to  
 16 architectural barriers that plaintiff personally encountered.

17 10. Plaintiff is informed, believes, and alleges that defendant owns and operates, and  
 18 was at all relevant times acting and performing, or failing to act or perform within its authority as  
 19 the owner and operator of the business to ensure that the accommodations, goods, services, and  
 20 opportunities were accessible to plaintiff and other members of the public who have physical  
 21 disabilities. Defendant's failure to comply with Federal and State access laws proximately caused  
 22 the violations and ongoing violations and damages to plaintiff complained of herein.

23 11. Defendant's facility and accommodations are open to the general public to visit  
 24 and to patronize and therefore is a "public accommodation" or "public facility" subject to the  
 25 requirements of the ADA and California Civil Code Sections 51, 52, 54, 54.1, and 54.3, *et seq.*,  
 26 California Health and Safety Code Section 19955, *et seq.*, and California Government Code  
 27 Section 4450, *et seq.*

28 12. At all times relevant to this Complaint, defendant has been and is responsible for

1 ensuring that its facilities are free of architectural barriers preventing full and equal access to  
 2 public accommodations for persons with disabilities as provided by Code of Federal Regulations,  
 3 Title 28, Chapter I, Part 36, Subpart B, Section 36.201, and that its goods, services, and  
 4 opportunities are fully and equally available to persons with disabilities. Specifically, Section  
 5 36.201 provides:

6 **§ 36.201 General.**

7 **(a) Prohibition of discrimination.** No individual shall be discriminated  
 8 against on the basis of disability in the full and equal enjoyment of the  
 9 goods, services, facilities, privileges, advantages, or accommodations of  
 any place of public accommodation by any private entity who owns, leases  
 (or leases to), or operates a place of public accommodation.

10 *See* 28 C.F.R. §36.201(a).

11 **FACTUAL ALLEGATIONS**

12 13. Kobe Japan is located at Oak Park Blvd., Pleasant Hill, California, 94523. The  
 13 premises of this facility consists of, among other things, the restaurant's entrance, transaction  
 14 counter, interior paths of travel to different dining areas within the facility, a bar, a sushi counter,  
 15 different table seating options, and restroom accommodations offered and available to nondisabled  
 16 members of the public.

17 14. All of the foregoing accommodations are subject to the design, construction, and  
 18 barrier removal requirements under Title III of the ADA, the ADA Accessibility Guidelines  
 19 ("ADAAG"), and California statutory requirements for providing and maintaining barrier free  
 20 accommodations under Government Code Section 4450, *et seq.*, Civil Code Sections 51, 52, 54,  
 21 54.1, and 54.3, and Health & Safety Code Section 19955, *et seq.*

22 15. Plaintiff is informed, believes, and alleges that defendant failed to design and  
 23 construct a facility that was readily accessible to, and usable by, individuals with disabilities  
 24 when it was structurally practicable to do so. Plaintiff also alleges in the alternative, that  
 25 defendant failed to remove access barriers when it was readily achievable to do so. Thus,  
 26 defendant has violated the ADA by failing to provide and ensure full and equal access to its  
 27 public facilities and accommodations for plaintiff and similarly situated individuals.

28 16. Defendant's failure to provide accessible accommodations for plaintiff and

1 similarly situated individuals also violates accessibility standards under Title 24 of the California  
2 Code of Regulations, which is known as the California Building Standards Code or more  
3 commonly as “Title 24”. Plaintiff alleges on information and belief that the aforementioned  
4 facilities have been altered, modified, and/or repaired since its original construction, which in  
5 turn, subjects the facilities in question and each of its public accommodations to the access  
6 requirements under California Health and Safety Code Sections 19955-19959 as well as the  
7 access requirements of Title 24.

8         17. Plaintiff and his family visited Kobe Japan on June 13, 2024 to have dinner.  
9 Upon arriving at the restaurant, plaintiff had difficulty opening the entrance door due to a lack of  
10 strike-side clearance and excessive door pressure. The excessive door pressure forced plaintiff to  
11 exert physical effort to pull open the front door, which caused plaintiff to experience difficulty  
12 and discomfort. The front door was also fast closing, which forced plaintiff to maneuver his  
13 wheelchair as he entered the facility to avoid having the door close on him.

14         18. After entering the restaurant, plaintiff and his family were greeted by an employee  
15 who seated them at a dining table located in the bar area of the facility. As they approached their  
16 table, plaintiff saw that the table did not appear to be accessible due to its configuration. Plaintiff  
17 decided to make the best of the situation after noticing that the other tables in the bar area did not  
18 appear to be accessible. Unfortunately, plaintiff had difficulty fully accessing the table during  
19 dinner and was forced to lean forward uncomfortably from his wheelchair to reach for his food  
20 and drink, which caused him to experience difficulty, physical discomfort, and embarrassment.

21         19. When plaintiff had to use the men’s restroom, he had difficulty accessing it due to  
22 excessive door pressure that he encountered when entering, and later leaving the restroom, which  
23 caused plaintiff to experience difficulty and physical discomfort. Additionally, plaintiff  
24 encountered an inaccessible stall that was improperly configured and had insufficient clear floor  
25 space, a narrow door opening, inaccessible grab bars, inaccessible toilet seat cover dispenser and  
26 flush lever, and a lack of accessible hardware on the stall door. Plaintiff also encountered an  
27 inaccessible paper towel and soap dispenser. When he attempted to use these accommodations in  
28 defendant’s restroom, plaintiff experienced difficulty and physical discomfort.

1           20. Despite the difficulties that plaintiff experienced during his visit to Kobe Japan,  
2 plaintiff and his wife enjoyed the food and wanted to go back to try the sushi bar, so plaintiff and  
3 his wife returned to Kobe Japan on September 13, 2024. Upon arriving, plaintiff encountered the  
4 same access problems with the facility's entrance. Plaintiff and his wife told an employee they  
5 wanted to sit at the sushi bar, but upon realizing that it did not appear to be accessible due to its  
6 configuration, they decided to sit at nearby dining table. However, the table was inaccessible and  
7 caused plaintiff the same difficulty and physical discomfort that he experienced during his first  
8 visit to Kobe Japan. Later, when plaintiff had to use the men's restroom, he encountered the  
9 same inaccessible elements and accommodations from his prior visit and experienced difficulty  
10 and physical discomfort from attempting to use defendant's restroom accommodations.

11           21. Plaintiff is informed, believes, and alleges that defendant is aware of its obligation  
12 under the ADA and California access standards and regulations to provide persons with  
13 disabilities full and equal access to services, accommodations, opportunities, and facilities that  
14 defendant offers and makes available to nondisabled persons visiting its facility. Yet, despite this  
15 knowledge, defendant has failed to put in place accessible accommodations, facilities, policies,  
16 and procedures to ensure that the different accommodations and opportunities defendant provides  
17 to the public are fully and equally available to plaintiff and other persons with disabilities.

18           22. Plaintiff's adverse experiences have, on at least one other occasion after his last  
19 visit to Kobe Japan, deterred him from returning to the facility to avoid encountering the same  
20 barriers and experiencing the same denial of full and equal access that caused him difficulty,  
21 discomfort, and embarrassment after attempting to access defendant's accommodations, services,  
22 and opportunities during his prior visits to defendant's facility.

23           23. Plaintiff seeks to compel defendant to remove all access barriers from its facilities,  
24 as required by Federal and California access laws, regulations, and standards to provide plaintiff  
25 and other similarly situated individuals full and equal access to the accommodations, facilities,  
26 and opportunities that defendant offers and provides to nondisabled members of the public.  
27 Plaintiff also seeks to recover deterrence damages against defendant under California law.

28           24. Plaintiff is informed, believes, and alleges that defendant failed to provide full and

1 equal access to other accommodations and services at its facility and has failed to remove other  
2 barriers that have yet to be identified. Thus, plaintiff's legal representative requires a formal  
3 inspection of defendant's premises and an opportunity to identify and assess all other existing  
4 barriers affecting persons with disabilities who are similarly situated to plaintiff. This inspection  
5 will enable plaintiff to determine the appropriate scope of injunctive relief required to correct all  
6 of defendant's past, present, and ongoing violations of Federal and California disability access  
7 standards, regulations, and laws.

8 25. Plaintiff is informed, believes, and alleges that he and other similarly situated  
9 disabled persons will continue to be discriminated against on an ongoing basis as long as  
10 defendant continues to violate the ADA and California access laws by failing to provide full and  
11 equal access to accommodations and opportunities that it offers and provides to the public.  
12 Plaintiff has no adequate remedy at law to address recurring injury should he or other disabled  
13 persons visit defendant's facility in its current inaccessible configuration and operation. Unless  
14 the Court grants the requested relief, plaintiff and other disabled persons will suffer and continue  
15 to suffer irreparable injury and harm from the denial of full and equal access to accommodations,  
16 facilities, opportunities, and services offered and provided by defendant to the public.

17 26. Defendant's acts and omissions in owning, operating, leasing, constructing,  
18 altering, and maintaining the subject facilities denied plaintiff full and equal access to the  
19 accommodations, opportunities, and services defendant offers to the public. Thus, plaintiff  
20 seeks an injunction from the Court requiring defendant to make its accommodations, facilities,  
21 and opportunities fully accessible to disabled persons and to take all necessary steps to ensure  
22 that the accommodations are maintained in a fully accessible condition and manner.

23 27. Plaintiff is informed, believes, and alleges that at all relevant times mentioned,  
24 defendant knew, or in the exercise of reasonable diligence should have known, that the barriers at  
25 its facility violated disabled access requirements and standards, and had a discriminatory impact  
26 on plaintiff and other physically disabled persons. However, defendant has failed to correct the  
27 ongoing violations and continues to maintain the very policies and access barriers that unlawfully  
28 discriminate against plaintiff and other persons with disabilities by precluding them from full and



1 equal access to the accommodations, facilities, opportunities, and experiences that defendant  
2 provides to nondisabled persons who visit defendant's facility.

3 **I. FIRST CAUSE OF ACTION**  
4 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT**  
5 **(42 U.S.C. Section 12101, *et seq.*)**

6 28. Plaintiff repleads and incorporates by reference, as if fully set forth again herein,  
7 the allegations contained in paragraphs 1 through 27 of this Complaint.

8 29. In 1990, the United States Congress made factual findings regarding persons with  
9 physical disabilities and concluded that laws were needed to more fully protect:

10 [S]ome 43 million Americans with one or more physical or  
11 mental disabilities; [that] historically society has tended  
12 to isolate and segregate individuals with disabilities;  
13 [that] such forms of discrimination against individuals  
14 with disabilities continue to be a serious and pervasive  
15 social problem; [that] the nation's proper goals regarding  
16 individuals with disabilities are to assure equality of  
17 opportunity, full participation, independent living and  
18 economic self-sufficiency for such individuals; [and that] the  
19 continuing existence of unfair and unnecessary discrimination  
20 and prejudice denies people with disabilities the opportunity to  
21 compete on an equal basis and to pursue those opportunities  
22 for which our free society is justifiably famous.

23 *See* 42. U.S.C. Section 12101.

24 30. Congress stated as its purpose in passing the Americans with Disabilities Act of  
25 1990 (42 U.S.C. Section 12102) that:

26 It is the purpose of this Act

27 (1) to provide a clear and comprehensive national mandate for the elimination  
28 of discrimination against individuals with disabilities;

(2) to provide clear, strong, ***consistent, enforceable standards*** addressing  
discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing  
the standards established in this Act on behalf of individuals with disabilities; and

(4) to invoke the sweep of Congressional authority, including the power to enforce  
the Fourteenth Amendment and to regulate commerce, in order to address the major  
areas of ***discrimination faced day-to-day*** by people with disabilities.

*See* 42 U.S.C. Section 12101(b) (emphasis added).

31. As part of the Americans with Disabilities Act of 1990, Public Law 101-336,



1 Congress passed “Title III - Public Accommodations and Services Operated by Private Entities.”  
 2 See Section 301 of the ADA, 42 U.S.C. Section 12181, *et seq.*

3 32. Section 302 of the ADA, 42 U.S.C. Section 12182, provides that “[n]o individual  
 4 shall be discriminated against on the basis of disability in the full and equal enjoyment of the  
 5 goods, services, facilities, privileges, advantages, or accommodations of any place of public  
 6 accommodation by any person who owns, leases, or leases to, or operates a place of public  
 7 accommodation.”

8 33. The specific prohibitions against discrimination set forth in Section 302(b)(2)(A)  
 9 of the ADA, 42 U.S.C. Section 12182(b)(2)(A) provide that:

10 For purposes of subsection (a) of this section, discrimination includes -

11 (i) the imposition or application of eligibility criteria that  
 12 screen out or tend to screen out an individual with a disability  
 13 or any class of individuals with disabilities from fully and  
 equally enjoying any goods, services, facilities, privileges,  
 advantages, or accommodations . . .;

14 (ii) a failure to make reasonable modifications in  
 15 policies, practices, or procedures, when such modifications  
 16 are necessary to afford such goods, services, facilities,  
 privileges, advantages or accommodations to individuals  
 with disabilities . . .;

17 (iii) a failure to take such steps as may be necessary to  
 18 ensure that no individual with a disability is excluded, denied  
 19 services, segregated or otherwise treated differently than other  
 individuals because of the absence of auxiliary aids and  
 services . . .;

20 (iv) a failure to remove architectural barriers, and  
 21 communication barriers that are structural in nature, in  
 existing facilities . . . where such removal is readily  
 achievable; and

22 (v) where an entity can demonstrate that the removal of  
 23 a barrier under clause (iv) is not readily achievable, a failure  
 24 to make such goods, services, facilities, privileges,  
 25 advantages or accommodations available through alternative  
 methods if such methods are readily achievable.

26 See 42 U.S.C. Section 12182(b)(2)(A)(i)-(v).

27 34. Defendant’s acts and omissions set forth herein violated plaintiff’s civil rights  
 28 under the ADA and the regulations promulgated thereunder at 28 C.F.R. Part 36, *et seq.* In 1992,

1 the standards of the ADA were incorporated into California law, making a violation of the ADA  
 2 sufficient to establish a violation of California Civil Code Sections 51, 52, 54, 54.1, and 54.3,  
 3 thereby providing access plaintiffs with the damages remedies available under these statutes.

4 35. Plaintiff is informed, believes, and alleges that defendant's accommodations and  
 5 facility were designed, constructed, and altered or renovated after January 26, 1992, thereby  
 6 triggering access requirements under Title III of the ADA that are specifically addressed in the  
 7 ADAAG. Among other things, these requirements expressly prohibit the design and construction  
 8 of facilities for first occupancy after January 26, 1993, that are not readily accessible to, and  
 9 usable by, individuals with disabilities when it was structurally practicable to do so. *See* 42  
 10 U.S.C. Section 12183(a)(1); 28 C.F.R. Section 36.401(a)(1). Plaintiff is further informed and  
 11 believes that defendant violated the ADA by designing and constructing their facilities in a  
 12 manner that made accommodations, services, and opportunities not readily accessible to plaintiff  
 13 and other physically disabled members of the public when it was structurally practical to do so.  
 14 *See* 28 C.F.R. Sections 36.401, 36.406; 28 C.F.R. Part 36, Appendices A and B. Plaintiff is  
 15 informed, believes, and further alleges that construction of a readily accessible facility was also  
 16 required by applicable California law at the time defendant's facilities were constructed, altered,  
 17 remodeled, or renovated.

18 36. Plaintiff is informed, believes, and alleges that defendant has denied and  
 19 continues to deny full and equal access to plaintiff and to other persons with disabilities, which  
 20 amounts to unlawful discrimination against plaintiff and other similarly situated persons on the  
 21 basis of their disabilities in violation of the ADA. Specifically, sections 302 and 303 of the ADA  
 22 mandates that disabled persons such as plaintiff are entitled to receive the full and equal  
 23 enjoyment of the goods, services, facilities, privileges, advantages and accommodations that are  
 24 offered to members of the public who are not physically disabled. *See* 42 U.S.C. Sections 12182  
 25 and 12183; *see also* 28 C.F.R. Sections 36.101 and 36.201(a).

26 37. Pursuant to Section 308 of the ADA, 42 U.S.C. Section 12188, *et seq.*, plaintiff is  
 27 entitled to the remedies and procedures set forth in Section 204(a) of the Civil Rights Act of  
 28 1964, 42 U.S.C. 2000a-3(a), as plaintiff is being subjected to ongoing discrimination on the basis

1 of his disability in violation of the ADA and/or has sufficient grounds for believing that he is about  
 2 to be subjected to unlawful discrimination. Thus, plaintiff is entitled to an injunction compelling  
 3 defendant to comply with its obligations under the ADA and to provide plaintiff and other disabled  
 4 persons with full and equal access to the public accommodations and services at defendant's  
 5 facility that are enjoyed by nondisabled persons. *See* 42 U.S.C. Section 12188(a)(2) (providing  
 6 that "[i]n cases of violations of § 302(b)(2)(A)(iv) and § 303(a) . . . injunctive relief shall include  
 7 an order to alter facilities to make such facilities readily accessible to and usable by individuals  
 8 with disabilities to the extent required by this title."); *see also* 28 C.F.R. Section 36.501(a), (b).

9 38. Defendant's acts and omissions giving rise to this action have caused plaintiff to  
 10 incur legal expenses and attorney's fees to enforce plaintiff's rights against defendant's unlawful  
 11 discrimination and to enforce provisions of the law requiring full and equal access to public  
 12 accommodations for persons with disabilities. Thus, plaintiff seeks to recover all reasonable  
 13 attorney's fees, litigation expenses (including expert fees) and costs, pursuant to Section 505 of  
 14 the ADA (42 U.S.C. Section 12205) and 28 C.F.R. Section 36.505, which is the United States  
 15 Department of Justice's regulations for enforcement of Title III of the ADA. Plaintiff also seeks  
 16 to compel defendant to make its facility accessible to all disabled members of the public, thereby  
 17 justifying recovery of "public interest" attorney's fees pursuant to California Code of Civil  
 18 Procedure Section 1021.5.

19 WHEREFORE, plaintiff prays that this Court grants the requested injunctive relief and  
 20 award attorney's fees, litigation expenses, and costs as hereinafter stated against defendant.

21 **II. SECOND CAUSE OF ACTION**  
 22 **VIOLATION OF CALIFORNIA CIVIL CODE**  
**SECTIONS 54, 54.1, AND 54.3, *et seq.***

23 39. Plaintiff repleads and incorporates by reference as if fully set forth again herein,  
 24 the allegations contained in paragraphs 1 through 38 of this Complaint.

25 40. California Civil Code Section 54 provides that persons with physical disabilities  
 26 are not to be discriminated against because of their physical handicap or disability. This section  
 27 provides that:

28 (a) Individuals with disabilities . . . have the same rights

as the general public to full and free use of the streets, highways, sidewalks, walkways, public buildings, medical facilities, including hospitals, clinics, and physicians' offices public facilities, and other public places.

See California Civil Code Section 54(a).

41. California Civil Code Section 54.1 provides that persons with disabilities shall not be denied full and equal access to places of public accommodation or facilities:

(a)(1) Individuals with disabilities shall be entitled to ***full and equal access***, as other members of the general public, to accommodations, advantages, facilities, medical facilities, including hospitals, clinics, and physicians' offices, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise provided), telephone facilities, adoption agencies, private schools, hotels, lodging places, places of public accommodation, amusement or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

See California Civil Code Section 54.1(a)(1) (emphasis added).

42. California Civil Code Section 54.1 further provides that a violation of the Americans with Disabilities Act of 1990 constitutes a violation of Section 54.1. Specifically, Section 54.1(d) provides that:

(d) A violation of the right of an individual under the Americans with Disabilities Act of 1990 (Public Law 101-336) ***also constitutes a violation of this section***, and nothing in this section shall be construed to limit the access of any person in violation of that act.

See California Civil Code Section 54.1(d) (emphasis added).

43. Plaintiff is a qualified person within the meaning of Civil Code Section 54.1 whose rights have been violated by defendant as prohibited by Civil Code Sections 54 and 54.1. Each of the specific architectural barrier defendant has created, maintained, and knowingly failed and/or refused to remove constitutes a separate act in violation of Sections 54 and 54.1 of the California Civil Code. Plaintiff has been, and continues to be, denied full and equal access to the public accommodations and services available at defendant's facilities. Accordingly, plaintiff

1 seeks statutory damages pursuant to California Civil Code Section 54.3(a) for each day on which  
 2 he visited or has been deterred from visiting defendant's facility due to his knowledge, belief, and  
 3 personal experiences that the accommodations and services there are inaccessible to plaintiff and  
 4 to similarly situated persons. Section 54.3(a) of the California Civil Code provides that:

5 Any person or persons, firm or corporation, who denies or  
 6 interferes with admittance to or enjoyment of the public facilities  
 7 as specified in Sections 54 and 54.1 or otherwise interferes with  
 8 the rights of an individual with a disability under Sections 54,  
 9 54.1 and 54.2 is liable for each offense for the actual damages and  
 10 any amount as may be determined by a jury, or the court sitting  
 without a jury, up to a maximum of three times the amount of  
 actual damages but in no case less than one thousand dollars  
 (\$1,000), and attorney's fees as may be determined by the court  
 in addition thereto, suffered by any person denied any of the rights  
 provided in Sections 54, 54.1 and 54.2.

11 See California Civil Code Section 54.3(a).

12 44. Plaintiff suffered violations of his rights under California Civil Code Sections 54  
 13 and 54.1 when he was denied full and equal access to the public accommodations, facilities, and  
 14 services stated herein at defendant's facility. Defendant has denied plaintiff full and equal access  
 15 to the accommodations, facilities, and opportunities offered at defendant's facility, on the basis  
 16 of plaintiff's status as a person with physical disabilities.

17 45. As a result of defendant's acts and/or omissions which denied plaintiff full and  
 18 equal access to the facilities, accommodations, and services offered at defendant's facility,  
 19 defendant, in owning, operating, managing, and maintaining the subject facility, caused plaintiff  
 20 to suffer multiple violations of his civil rights, including but not limited to his rights under  
 21 Sections 54, 54.1 and 54.3 of the California Civil Code.

22 46. Plaintiff is informed and believes that before he visited defendant's facility,  
 23 defendant was aware of its legal obligations under Federal and California law requiring owners  
 24 and operators of public accommodations to make their facilities readily accessible to persons  
 25 with disabilities. Yet, despite this knowledge, defendant discriminated against plaintiff on  
 26 account of his physical disability and denied him full and equal access to the accommodations,  
 27 facilities, services, and opportunities that were fully available to nondisabled persons at this  
 28 business in violation of Sections 54 and 54.1 of the California Civil Code.



1 protected by provisions of this statute.

2 51. Under Section 54.1 of the California Civil Code, persons with disabilities are  
3 entitled to full and equal access to public accommodations. “Public accommodations” are  
4 further defined as a building, structure, facility complex, or improved area which is used by the  
5 general public and shall include parking lots, paths of travel, seating, and attendant facilities.

6 52. Defendant owns and operates its business, thereby subjecting defendant’s  
7 facilities to the requirements of California’s Disabled Rights statutes. California Health &  
8 Safety Code Section 19955 provides in pertinent part:

9 The purpose of this part is to insure that public accommodations  
10 or facilities constructed in this state with private funds adhere to  
11 the provisions of Chapter 7 (commencing with Sec. 4450) of  
12 Division 5 of Title 1 of the Government Code. For the purposes  
13 of this part “public accommodation or facilities” means a building,  
14 structure, facility, complex, or improved area which is used by the  
general public and shall include auditoriums, hospitals, theaters,  
restaurants, hotels, motels, stadiums, and convention centers . . .  
When sanitary facilities are made available for the public, clients  
or employees in such accommodations or facilities, they shall be  
made available for the handicapped.

15 See California Health & Safety Code Section 19955(a).

16 53. California Health & Safety Code Section 19956, which appears in the same  
17 chapter as Section 19955, provides in pertinent part, “accommodations constructed in this state  
18 shall conform to the provisions of Chapter 7 (commencing with Sec. 4450) of Division 5 of Title  
19 1 of the Government Code . . . .” Section 19956 of the Health & Safety Code was operative as  
20 of July 1, 1970, and is applicable to all public accommodations constructed or altered after that  
21 date. Plaintiff is informed, believes, and alleges that defendant’s facilities were constructed,  
22 altered, or repaired after July 1, 1970. Thus, the construction and/or modification of these  
23 facilities are subject to the requirements of Part 5.5, Section 19955, *et seq.*, of the California  
24 Health & Safety Code, which requires defendant to provide full and equal access to persons with  
25 disabilities upon completion of such construction, alteration, structural repairs or additions under  
26 Health & Safety Code Section 19959.

27 54. Plaintiff is informed, believes, and alleges that construction, alterations, structural  
28 repairs and/or additions were completed on the subject property after January 1, 1968, the



1 effective date of California Government Code Section 4450, *et seq*, and the July 1, 1970 effective  
2 date of Health & Safety Code Sections 19955-19959. Thus, defendant was required to provide  
3 accessible accommodations for persons with disabilities in each regard sought in this Complaint.

4 55. Pursuant to the authority under Government Code Section 4450, *et seq*, the State  
5 Architect promulgated regulations for the enforcement of these provisions. Effective July 1,  
6 1982, Title 24 of the California Building Standards Code (formerly known as the California  
7 Administrative Code) adopted the California State Architect's Regulations, which apply to any  
8 construction or alterations of public accommodations occurring after the effective date. Title 24  
9 was in effect at the time of each alteration, which occurred at defendant's facility after January 1,  
10 1982. Thus, the alterations triggered defendant's duty to comply with the access standards of  
11 Title 24 whenever each such "alteration, structural repair or addition" is carried out.

12 56. Defendant's facility and accommodations are "public accommodations" or  
13 "facilities" within the meaning of Health & Safety Code Section 19955, *et seq*. Defendant  
14 violated plaintiff's civil rights by denying him and similarly situated persons with disabilities  
15 full and equal access to the accommodations and opportunities that defendant provides to  
16 nondisabled members of the public.

17 57. As a result of defendant's ongoing failure to provide plaintiff with full and equal  
18 access to the public accommodations and related facilities at defendant's business, defendant  
19 has denied plaintiff and similarly situated persons of their civil rights to full and equal access to  
20 the aforementioned accommodations. Plaintiff believes defendant will continue its unlawful  
21 and discriminatory practices unless the Court compels defendant to provide accessible  
22 facilities as discussed herein.

23 58. Plaintiff has had to incur legal expenses to enforce his civil rights to receive full  
24 and equal access to the public accommodations for himself and for other similarly situated  
25 persons with physical disabilities. Because plaintiff seeks to enforce an important right that also  
26 affects the public interest, plaintiff is entitled to recover his reasonable attorney's fees and legal  
27 costs pursuant to the provisions of California Code of Civil Procedure Section 1021.5. Plaintiff  
28 additionally seeks to recover his attorney's fees pursuant to California Civil Code Section 54.3

1 and/or in the alternative, plaintiff will seek to recover his attorney's fees, costs and legal expenses  
 2 pursuant to Section 204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a-3(a)) if he is  
 3 deemed to be the prevailing party.

4 59. Defendant's aforementioned acts have proximately caused and will continue to  
 5 cause irreparable injury to plaintiff if defendant is not enjoined by this Court. Accordingly,  
 6 plaintiff seeks injunctive relief and an order compelling defendant to make its facility and  
 7 accommodations readily accessible to, and fully and equally accessible by, plaintiff and other  
 8 similarly situated persons with disabilities.

9 WHEREFORE, plaintiff prays for relief as hereinafter stated.

10 **IV. FOURTH CAUSE OF ACTION**  
 11 **FOR DENIAL OF ACCESS TO FULL AND EQUAL ACCOMMODATIONS,**  
 12 **ADVANTAGES, FACILITIES, PRIVILEGES AND/OR SERVICES IN**  
**VIOLATION OF CALIFORNIA CIVIL CODE SECTION 51, *ET SEQ.***  
**(THE UNRUH CIVIL RIGHTS ACT)**

13 60. Plaintiff repleads and incorporates by reference, as if fully set forth again herein,  
 14 the allegations contained in paragraphs 1 through 59 of this Complaint.

15 61. Defendant's actions and omissions and failure to act as reasonable and prudent  
 16 owners and/or operators of a public accommodation by ignoring, maintaining, and/or creating  
 17 architectural barriers, policies, practices and/or procedures that have precluded plaintiff and other  
 18 similarly situated persons with disabilities from full and equal access to the accommodations and  
 19 opportunities offered by defendant to nondisabled members of the public, violate Section 51 of  
 20 the California Civil Code, known as the Unruh Civil Rights Act. The Unruh Act provides:

21 (a) This section shall be known, and may be cited, as the  
 22 Unruh Civil Rights Act.

23 (b) All persons within the jurisdiction of this state are free  
 24 and equal, and no matter what their sex, race, color, religion,  
 25 ancestry, national origin, *disability*, medical condition, marital  
 status, or sexual orientation are entitled to the full and equal  
 accommodations, advantages, facilities, privileges, or services  
 in all business establishments of every kind whatsoever.

26 (c) This section shall not be construed to confer any right or  
 27 privilege on a person that is conditioned or limited by law or that is  
 28 applicable alike to persons of every sex, color, race, religion,  
 ancestry, national origin, or *disability*, medical condition, marital  
 status, or sexual orientation.

(d) Nothing in this section shall be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever, beyond that construction, alteration, repair, or modification that is otherwise required by other provisions of law, to any new or existing establishment, facility, building, improvement, or any other structure, nor shall anything in this section be construed to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other laws.

\* \* \* \*

(f) A violation of the right of any individual under the Americans with Disabilities Act of 1990 (Public Law 101-336) ***shall also constitute a violation of this section.***

See California Civil Code Section 51 (emphasis added).

62. Defendant's acts and omissions have denied plaintiff full and equal access to accommodations, advantages, facilities, privileges and services in a business establishment on the basis of physical disability in violation of Cal. Civil Code Section 51. Thus, defendant has violated plaintiff's civil rights by denying him full and equal access to accommodations, services, and opportunities provided to nondisabled persons who visit defendant's facility.

63. Each violation of the ADA, as stated above, which is incorporated herein as if separately stated, is also a violation of the Unruh Civil Rights Act as provided by Section 51(f) of the California Civil Code. Plaintiff has been, and continues to be, denied full and equal access to the public accommodations and services available to the general public at defendant's business. Thus, plaintiff seeks statutory damages pursuant to Civil Code Section 52(a) for his visits to defendant's facility and for each occasion he has been deterred from returning because of his knowledge and belief that the accommodations and services offered at defendant's business remain inaccessible to plaintiff and to other similarly situated persons with disabilities. These violations of the Unruh Act support an award of minimum statutory damages of \$4,000 against defendant for each actionable count of unlawful discrimination experienced by plaintiff.

64. Defendant's acts and omissions have required plaintiff to incur legal expenses and attorney's fees to enforce his civil rights under applicable Federal and California laws that prohibit discrimination against persons with disabilities. Accordingly, plaintiff seeks to recover

his reasonable attorney's fees, litigation expenses and legal costs, pursuant to Civil Code Section 52. Because plaintiff's action also seeks to require defendant to make its facility fully accessible to all disabled members of the public, plaintiff is entitled to an award of "public interest" attorney's fees and costs pursuant to California Code of Civil Procedure Section 1021.5.

WHEREFORE, plaintiff prays for relief as hereinafter stated.

### **PRAYER FOR RELIEF**

Plaintiff prays that this Court provide injunctive relief, award damages, attorney's fees and costs as follows:

#### **I. Prayer for FIRST CAUSE OF ACTION for Violation of the Americans with Disabilities Act of 1990 (42 U.S.C. §12101, *et seq.*)**

1. For injunctive relief, compelling defendant to make its business located at 1918 Oak Park Blvd., Pleasant Hill, California, 94523, and its related accommodations, facilities, and services available, fully accessible to, and usable by plaintiff and other individuals with disabilities as required by the ADA, 42 U.S.C. Section 12181, *et seq.*, and to make required modifications in policies, practices, and procedures to provide plaintiff and similarly situated persons full and equal access to the goods, services, opportunities, use and experiences, and accommodations that defendant offers to nondisabled members of the public.

2. For reasonable attorney's fees, litigation expenses, expert costs, and costs of suit, if plaintiff is deemed to be the prevailing party; and

3. For such other and further relief as the Court may deem to be just and proper.

#### **II. Prayer for SECOND CAUSE OF ACTION for Denial of Full and Equal Access in Violation of California Civil Code Sections 54, 54.1 and 54.3, *et seq.***

1. For statutory damages under California Civil Code ("Cal. Civ. Code") Section 54.3 against defendant for each count of actionable discrimination that plaintiff sustained from encountering architectural barriers at defendant's business and was denied full and equal access to the goods, services, accommodations, and opportunities offered to nondisabled members of the public, and for deterrence damages;

2. For attorney's fees pursuant to Cal. Civ. Code Section 54.3 and California Code of

1 Civil Procedure Section 1021.5, if plaintiff is the prevailing party;

2 3. For all costs, expert costs, and prejudgment interest under Cal. Civ. Code Section  
3 3291;

4 4. For such other and further relief as the Court may deem to be just and proper.

5 **III. Prayer for THIRD CAUSE OF ACTION for Denial of Accessible Public**  
6 **Facilities in Violation of California Health & Safety Code Section 19955, *et seq.***

7 1. For injunctive relief, compelling defendant to make its business located at 1918  
8 Oak Park Blvd., Pleasant Hill, California, 94523, and its related accommodations, facilities, and  
9 services available, accessible to, and usable by plaintiff and other individuals with disabilities, as  
10 required by applicable California law;

11 2. For attorney's fees pursuant to California Code of Civil Procedure Section 1021.5,  
12 if plaintiff is deemed to be the prevailing party;

13 3. For all costs of suit, expert costs and prejudgment interest, Cal. Civ. Code Section  
14 3291;

15 4. For such other and further relief as the Court may deem to be just and proper.

16 **IV. Prayer for FOURTH CAUSE OF ACTION for Denial of Access to Full and**  
17 **Equal Accommodations, Advantages, Facilities, Privileges and/or Services in**  
**Violation of California Civil Code Section 51, *et seq.***

18 1. For statutory damages against defendant pursuant to Cal. Civ. Code Section 52, *et*  
19 *seq.* for each separate occasion of discrimination that plaintiff sustained when he encountered  
20 architectural barriers at defendant's business located at 1918 Oak Park Blvd., Pleasant Hill,  
21 California, 94523, and was denied full and equal access to the goods, services, opportunities, and  
22 accommodations offered at the subject facility to nondisabled members of the public, and for  
23 deterrence damages;

24 2. For attorney's fees pursuant to Cal. Civ. Code Section 52, if plaintiff is deemed to  
25 be the prevailing party;

26 3. For injunctive relief pursuant to Cal. Civ. Code Section 52, compelling defendant  
27 to make its business located at 1918 Oak Park Blvd., Pleasant Hill, California, 94523, and its  
28 related accommodations, facilities, and services available, accessible to, and usable by plaintiff

1 and other individuals with disabilities, as required by applicable California law.

2 4. For all costs of suit, expert costs and prejudgment interest, Cal. Civ. Code Section  
3 3291;

4 5. For such other and further relief as the Court may deem to be just and proper.  
5

6 Dated: February 3, 2025

LAW OFFICE OF JASON G. GONG  
*A Professional Corporation*

*/s/ Jason G. Gong*

8 By: \_\_\_\_\_

JASON G. GONG  
Attorney for Plaintiff  
BEHRUZ BONSHAHI